



Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Law Office of Ronald A. Norman Ronald A. Norman, Esq. (SNB 62282) 5404 Whitsett Ave Suite 133 Valley Village, CA 91607 Phone: 818 761-7181 Fax: 818 761-7171 ronaldanorman@sbcglobal.net <input checked="" type="checkbox"/> Respondent appearing without attorney <input type="checkbox"/> Attorney for Respondent:	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA -LOS ANGELES DIVISION 	
In re: PETR MEDACEK Debtor(s).	CASE NO.: 2:17-bk-20560-NB CHAPTER: 13  RESPONSE TO MOTION REGARDING THE AUTOMATIC STAY AND DECLARATION(S) IN SUPPORT DATE: 9/19/2017 TIME: 10:00 AM COURTROOM: 1545 PLACE: 255 E Temple St., Los Angeles, CA 90012
Movant: Deutsche Bank National Trust Company as Trustee for WaMu 2005-AR11	

Respondent: ☒ Debtor ☐ trustee ☐ other:

NOTE REGARDING FILING AND SERVICE OF RESPONSE, EXHIBITS AND DECLARATIONS:

A copy of the Response, exhibit(s) and declaration(s) must be served upon:

- (1) Movant's attorney (or Movant, if Movant does not have an attorney);
- (2) the trustee; and
- (3) the judge who presides over this bankruptcy case.

Then the document must be filed with the court.

1. ☐ **NONOPPOSITION**

The Respondent does not oppose the granting of the Motion.

2. ☐ **LIMITED OPPOSITION**

- a. ☐ Respondent opposes the Motion only to the extent that it seeks immediate relief from stay. Respondent requests that no lock out, foreclosure, or repossession take place before (date): _____ and the reason for this request is (specify): _____
- b. ☐ As set forth in the attached declaration of the Respondent or the Debtor, the motion is opposed only to the extent that it seeks a specific finding that the Debtor was involved in a scheme to hinder, delay or defraud creditors.
- The Debtor:
- (1) ☐ has no knowledge of the Property.
- (2) ☐ has no interest in the Property.
- (3) ☐ has no actual possession of the Property.
- (4) ☐ was not involved in the transfer of the Property.
- c. ☐ Respondent opposes the Motion and will request a continuance of the hearing since there is an application for a loan modification under consideration at this time. Evidence of a pending loan modification is attached as Exhibit _____.

3. ☒ **OPPOSITION:** The Respondent opposes granting of the Motion for the reasons set forth below.

- a. ☒ The Motion was not properly served (specify): the motion was incorrectly addressed to this respondent
- (1) ☒ Not all of the required parties were served.
- (2) ☒ There was insufficient notice of the hearing.
- (3) ☒ An incorrect address for service of the Motion was used for (specify): service of this motion and notice thereof upon this responding Debtor.
- b. ☒ Respondent disputes the allegations/evidence contained in the Motion and contends as follows:
- (1) ☒ The value of the Property is \$ 497,724.00, based upon (specify): declaration of California Reconveyance Company as trustee for Movant
- (2) ☒ Total amount of debt (loans) on the Property is \$ 1,238,302.04 (estimated).
- (3) ☒ More payments have been made to Movant than the Motion accounts for. ~~True and correct copies of canceled checks proving the payments that have been made are attached as Exhibit _____.~~
- (4) ☐ There is a loan modification agreement in effect that lowered the amount of the monthly payments. A true and correct copy of the loan modification agreement is attached as Exhibit _____.
- (5) ☒ The Property is necessary for an effective reorganization. Respondent filed or intends to file a plan of reorganization that requires use of the Property. ~~A true and correct copy of the plan is attached as Exhibit _____.~~
- (6) ☒ The Property is fully provided for in the chapter 13 plan ~~and all postpetition plan payments are current. A true and correct copy of the chapter 13 plan is attached as Exhibit _____ and proof that the plan payments are current through the chapter 13 trustee is attached as Exhibit _____.~~
- (7) ☒ The Property is insured. Evidence of current insurance is attached as Exhibit 3.

- (8) ☒ Movant's description of the status of the unlawful detainer proceeding is not accurate.
- (9) ☒ Respondent denies that this bankruptcy case was filed in bad faith.
- (10) ☒ The Debtor will be prejudiced if the Nonbankruptcy Action is allowed to continue the nonbankruptcy forum.
- (11) ☒ Other (*specify*): the Movant does not own the property and therefore lacks the legal capacity and/or standing to assert this motion

c. ☒ Respondent asserts the following as shown in the declaration(s) filed with this Response:

- (1) ☐ The bankruptcy case was converted from chapter ____ to chapter ____.
- (2) ☐ All postpetition arrearages will be cured by the hearing date on this motion.
- (3) ☒ The Property is fully provided for in the chapter 13 plan and all postpetition plan payments
☒ are current, or ☐ will be cured by the hearing date on this motion.
- (4) ☒ The Debtor has equity in the Property in the amount of \$50,000.00+accrued interest
- (5) ☐ Movant has an equity cushion of \$ _____ or _____ % which is sufficient to provide adequate protection.
- (6) ☒ The Property is necessary for an effective reorganization because (*specify*):
the Debtor has equity in the property with which the claims of the Debtor's creditors can be satisfied
- (7) ☒ The motion should be denied because (*specify*):
the Movant does not own the property and therefore lacks the legal capacity and/or standing to assert this motion
- (8) ☒ An optional memorandum of points and authorities is attached in support of this Response.

4. **EVIDENCE TO AUTHENTICATE EXHIBITS AND TO SUPPORT FACTS INSERTED IN THE RESPONSE:**

Attached are the following documents in support of this Response:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Declaration by the Debtor | <input type="checkbox"/> Declaration by the Debtor's attorney |
| <input type="checkbox"/> Declaration by trustee | <input type="checkbox"/> Declaration by trustee's attorney |
| <input type="checkbox"/> Declaration by appraiser | <input type="checkbox"/> Other (<i>specify</i>): |

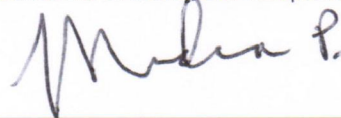
Date: 9/11/2017

Law Offices of Ronald A Norman

Printed name of law firm for Respondent (if applicable)

Petr Medacek

Printed name of individual Respondent or attorney for Respondent



Signature of individual Respondent or attorney for Respondent

DECLARATION OF PETR MEDACEK

I, Petr Medacek , declare:

1. I am the Debtor herein, whereby I have first hand knowledge of the facts set forth in this declaration, except those known to me on information and belief, therefore, if called upon to do so, I could and would competently testify to the following:
2. I make this declaration in support of my response to the motion of Deutsche Bank National Trust Company as Trustee for WaMu 2005-AR11 for relief of stay (hereinafter referred to as the motion)..
3. I am a tenant, at the real property premises commonly known as 901 Isabel Street, Los Angeles California.
4. On July 16, 2017 , Deutsche Bank National Trust Company as Trustee for WaMu 2005-AR11 (hereinafter referred to as the movant) instituted proceedings in unlawful detainer to evict me from said premises in violation of the terms of my tenancy.
5. On August 28, 2017, I filed a voluntary petition for Chapter 13 bankruptcy and the movant filed a motion, therein, for relief of stay claiming to be the owner of the property by a trustee's deed upon sale dated 5/09/2011 and recorded in Los Angeles County as instrument number 20110686909, however, on 5/18/2011 that deed was rescinded by its grantor whereby a notice of rescission of trustee's deed upon sale was recorded in Los Angeles County on 3/28/13 as instrument number 20130462166 whereby I am therefore informed and believe that because of the foregoing movant is not the owner of the property whereby the movant has no standing, or legal capacity to bring its motion in this respondent's bankruptcy case for relief of stay. (a true and correct copy of that

1 rescission of trustee's deed upon sale is attached hereto and identified as exhibit 1
2 hereof.)

3 6. Movant failed to provide me with notice of this motion by not correctly addressing it to
4 me. (a true and correct copy of the incorrectly addressed mailing is attached hereto and
5 identified as exhibit 2 hereof.)

6
7 7. I am informed and believe that the movant addressed said motion to me at 9663 Santa
8 Monica Boulevard, Beverly Hills California instead of 901 Isabel Street, Los Angeles
9 California.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct.
12

13 Executed this 11th day of September, 2017

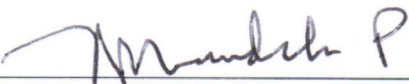
14 
15 Petr Medacek

EXHIBIT 1

This page is part of your document - DO NOT DISCARD



20130462166



Pages:
0003

Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

03/28/13 AT 08:34AM

FEES:	21.00
TAXES:	0.00
OTHER:	0.00
PAID:	21.00



LEADSHEET



201303280720001

00007462635



004748957

SEQ:
01

DAR - Counter (Upfront Scan)



THIS FORM IS NOT TO BE DUPLICATED

RECORDING REQUESTED BY

RADKA KROUL

AND WHEN RECORDED MAIL TO

RADKA KROUL
901 ISABEL STREET,
LOS ANGELES, CA 90065



Space above this line for recorder's use only

Trustee Sale No. 242081CA Loan No. 0689956878 Title Order No. 409762

NOTICE OF RESCISSION OF TRUSTEE'S DEED UPON SALE

This Notice of Rescission is made on 05-13-2011 with respect to the following facts:

1. That CALIFORNIA RECONVEYANCE COMPANY, a California Corporation as the duly appointed trustee under that certain Deed of Trust dated 04-15-2005 and Recorded 04-29-2005, Book, Page, Instrument 051001174 naming RADKA KROUL, A MARRIED WOMAN AS HER SOLE AND SEPARATE PROPERTY, as Trustor, and WASHINGTON MUTUAL BANK, FA, as beneficiary, securing a Promissory Note in the amount of \$900,000.00.

2. The Deed of Trust encumbers the real property situated in the County of LOS ANGELES, State of CALIFORNIA, described as follows:

PARCEL 1:

LOTS 4, 5 AND 6 OF TRACT NO. 2952, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 36, PAGE 51 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

PARCEL 2:

LOT 186 OF GRANDVIEW TERRACE, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 18, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN 5452-002-001

Situs: 901 ISABEL STREET, LOS ANGELES, CA 90065

3. That by virtue of a Default under the terms of the Deed of Trust the Beneficiary did declare a default, as set forth in a Notice of Default and Election to Sell, which Notice was recorded in the Office of the County Recorder of LOS ANGELES, California.

4. On 05-09-2011 the property was purportedly sold to Deutsche Bank National Trust Company as trustee for WAMU 2005-AR 1 being the highest bidder at such sale who bid the amount of \$497,724.00

5. The Trustee has been informed that the beneficiary desires to rescind the Trustee's Deed recorded upon the foreclosure sale which was conducted in error due to a failure to communicate timely, notice of conditions which would have warranted a postponement of the foreclosure sale which did occur on 05-09-2011.

6. The express purpose for this Notice of Rescission is to return the priority and existence of all lien holders to the status quo ante that existed prior to the Trustee's Sale.

NOW, THEREFORE, THE UNDERSIGNED HEREBY RESCINDS THE TRUSTEE'S SALE AND PURPORTED TRUSTEE'S DEED UPON SALE AND HEREBY ADVISES ALL PERSONS, WHOMEVER AND WHATSOEVER LOCATED, THAT THE TRUSTEE'S DEED UPON SALE DATED 05-11-2011, FROM CALIFORNIA RECONVEYANCE COMPANY TO Deutsche Bank National Trust Company as trustee for WAMU 2005-AR 1, AND RECORDED 05-16-2011 AS INSTRUMENT NUMBER 20110686909, OF OFFICIAL RECORDS OF LOS ANGELES COUNTY IS HEREBY RESCINDED AND SHALL HAVE NO FURTHER FORCE OR EFFECT WHATSOEVER.

MAIL TAX STATEMENTS TO ABOVE ADDRESS

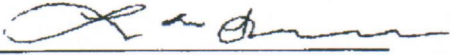
3

IN WITNESS WHEREOF, CALIFORNIA RECONVEYANCE COMPANY, has caused its corporate name and seal to be hereto affixed by its authorized signature.

DATE: 05-18-2011

CALIFORNIA RECONVEYANCE COMPANY, as Trustee

BY


Karime Arias, Assistant Secretary

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

On 05-18-2011 before me, JESSICA ERIN SNEDDEN, "Notary Public" personally appeared KARIME ARIAS, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

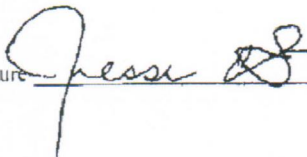
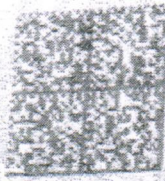
 (seal)



EXHIBIT 2

U.S. POSTAGE & MONEY ORDER
ZIP 91401 \$000.46
02/11/17
0000334410



W.C.

NEXIE

DELIVER 1

0004/12/17

NOT DELIVERABLE AS ADDRESSED
RETURN TO SENDER
UNABLE TO FORWARD

BC: 91401278999

91364-403040

070607-69616



MEMORANDUM OF POINTS AND AUTHORITIES

BACKGROUND

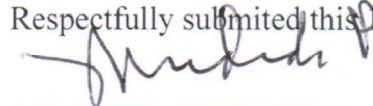
On July 28, 2016 Deutsche Bank National Trust Company as Trustee for WaMu 2005-AR11 (hereinafter referred to as the movant) initiated an action to evict Petr Medacek, (hereinafter referred to as respondent) and others from the real property residence at 901 Isabel Street, Los Angeles, California (hereinafter referred to as the property).

On August 28, 2017, respondent filed a voluntary petition for Chapter 13 bankruptcy and the movant filed its motion therein for relief of stay claiming it was the owner of the property by a trustee's deed upon sale dated 5/09/2011 and recorded in Los Angeles County as instrument number 20110686909, however, on 5/18/2011 that deed was rescinded by its grantor whereby a notice of rescission of trustee's deed upon sale was recorded in Los Angeles County on 3/28/13 as instrument number 20130462166.

Accordingly the movant is not the owner of the property whereby the movant has no standing, or legal capacity to bring its motion in this respondent's bankruptcy case for relief of stay.

Notwithstanding the foregoing, the movant failed to provide respondent with a true and correct copy of the motion before this Court, or timely notice thereof by not correctly addressing it to respondent, who is informed that the movant addressed said motion to 9663 Santa Monica Boulevard, Beverly Hills California instead of respondent's correct address of 901 Isabel Street, Los Angeles California.

Respectfully submitted this 11TH DAY OF September 2017



Petr Medacek

EXHIBIT 3

Named Insured
RADKA KROUL
901 ISABEL ST
LOS ANGELES CA 90065



CUSTOMER SERVICE 888-474-7500

**HOMEOWNERS POLICY
ORIGINAL DECLARATIONS**

NO: CASH000267041

Policy Period: 12 months From: 4/26/2005 To: 4/26/2006 12:01 a.m., STANDARD TIME at the residence premises.

NOTE: When an effective date appears, this is a revised declaration and voids previously issued decs bearing the same policy number

MAIL TO:

RADKA KROUL
901 ISABEL ST
LOS ANGELES CA 90065

EFFECTIVE:
BROKER NUMBER: 002348 (213) 387-5000
BROKER: CAL-KOR INSURANCE SERVICES
3200 WILSHIRE BLVD., #1700
LOS ANGELES, CA 90010

The described location covered by this policy is located at:
901 ISABEL ST
LOS ANGELES CA 90065

REMARKS: ORIGINAL DECLARATIONS

Insurance is provided only with respect to the following coverages for which a limit of liability and/or premium is specified, subject to all conditions of this policy. In case of loss under this policy, we cover only that part of the loss over the deductible stated. The deductible applies per occurrence. Based on the information available to us, the premium shown is the lowest we offer for which you qualify.

Coverage Description	Coverage/Limit Amount	Policy Deductible	Coverage Premium	Forms and Endorsements made part of this policy at time of issue
COVERAGE A - DWELLING	\$706,600		\$4,896.00	EO 24 90 01/93
COVERAGE B - OTHER STRUCTURES	\$70,660		INCL.	EO 01 04 02/98
COVERAGE C - PERSONAL PROPERTY	\$494,620		INCL.	EO 00 03 04/91
COVERAGE D - LOSS OF USE	\$141,320		INCL.	FSH19 05/02
COVERAGE E - PERSONAL LIABILITY	\$300,000		\$16.00	FSH09 02/95
COVERAGE F - MEDICAL PAYMENTS TO OTHERS	\$5,000		\$12.00	FSH08 01/05
DEDUCTIBLE		\$2,500	\$1,406.00	FSH010 02/95
ENHANCEMENT PLUS			\$557.00	FSH01 11/04
HOMEOWNERS PLUS END.W/5% INFLATION GUARD			INCL.	438 BFD NS 05/42
BUILDING CODE UPGRADE COVERAGE			INCL.	FSH06 01/01
CREDIT CARD COVERAGE	\$70,660		INCL.	HO 04 96 04/91
FIRE DEPT SERVICE CHARGE COVERAGE	\$1,000		INCL.	FSH27 08/03
BUSINESS PROPERTY	\$750		INCL.	FSH18 10/01
JEWELRY, WATCHES AND FURS	\$2,500		INCL.	FSH02 02/95
LOSS ASSESSMENT COVERAGE	\$1,500		INCL.	FSH011 02/95
SILVER, GOLD AND PEWTER	\$2,000		INCL.	HO 04 16 04/91
	\$2,500		INCL.	

REPORTED SQ FT OF DWELLING: 4300 REPLACEMENT DOLLAR PER SQ FT USED: \$164
The limit of liability for this structure (Coverage A) is based on an estimate of the cost to rebuild your home, including an approximate cost for labor and materials in your area, and specific information that you have provided about your home.

TOTAL PREMIUM: \$4075.00

VESTING: RADKA KROUL

NOTICE: THIS POLICY DOES NOT PROVIDE COVERAGE FOR THE PERIL OF EARTHQUAKE

Mortgagee/Lienholder Name and Address:

WASHINGTON MUTUAL ISAOA PO BOX 100564 FLORENCE, SC 29501-0564 03-2307-068995667-8

OWNER, Protection Class-02, Family-1, 1905 Tier 2

Countersigned: 5/03/05 Santa Ana, CA By: _____

Authorized Representative

THESE DECLARATIONS TOGETHER WITH POLICY JACKET, HOMEOWNERS FORM, AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF. COMPLETE THE ABOVE NUMBERED POLICY

BKR

INSURED COPY

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

5404 Whitsett Ave Suite 133
Valley Village, CA 91607

A true and correct copy of the foregoing document entitled: **RESPONSE TO MOTION REGARDING THE AUTOMATIC STAY AND DECLARATION(S) IN SUPPORT** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 9/11,2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

United States Trusteeb (LA): ustregion16.la.ecf@usdoj.gov
Deutsche Bank National Trust Company as Trustee for WaMu 2005-AR11randall@naimanlaw.com
chapter 13 Trustee: efiling @ch13la.com

☐ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:**

On (date) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Hon. Neil W. Bason
Edward R. Roybal Federal Building
255 E. Temple Street Suite 1552
Los Angeles CA90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

9/11/2017

John Edwards

Date

Printed Name

Signature